

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RONALD TUCKER,  
PETITIONER

v.

MICHAEL ZENK,  
RESPONDENT.

**FILED**  
**HARRISBURG, PA**

NO. 1:CV-00-1780  
(JUDGE KANE)

APR 28 2003

MARY E. D'ANDREA, CLERK  
Per                     

MOTION TO COMPEL DISCOVERY

MOTION FOR ORDER COMPELLING DISCLOSURE OR DISCOVERY  
PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE RULE 37

COMES NOW, Ronald Tucker, Movant, pro se, (hereinafter "movant") and duteously beseeches this Honorable Court to issue an Order pursuant to Federal Rules of Civil Procedure 37, and compel the respondent to make documents available to movant and this Court, for inspection and copying.

Movant currently has pending before this Court, a motion pursuant to Fed. Rules. Civ. P. 60(b). This 60(b) motion pertains to newly discovered evidence and fraud perpetrated upon the Court regarding the B.O.P.'s fraudulent statements of movant being removed from state custody pursuant to a writ of habeas corpus ad prosequendum.

On January 30, 2003, movant submitted to this Court and to the respondent, a request for production of documents along with an affidavit in support of his motion and a letter to the Court informing the Court of the improprieties of Bureau of Prison staff.



In a letter to movant, dated February 11, 2003 from the Assistant United States Attorney, Kate Mershimer, representing the respondent, the Assistant U.S. Attorney stated: "...the United States will not be responding to your Request for Production of Documents." The A.U.S.A. also stated: "[T]he respondents object to your discovery request as being improper and irrelevant."

Movant vehemently contends that the documents he requested in his "Request for Production of Documents" are relevant to the case at bar, so much as the Executive Assistant of FCI-Allenwood was willing to give said papers to movant in return for his withdrawal of a pending grievance against her.

Movant humbly and respectfully asks this Honorable Court to issue an Order to Compel the respondent to disclose said documents.

If the Court does not issue an Order compelling discovery, movant would beg this Court to take **judicial notice** of the fact that the documents described in movant's "Request for Production of Documents" do in fact exist, and in framing its decision of movant's pending Rule 60(b) motion, will sua sponte, recognize the existence of truth of the facts bearing on the controversy of whether or not a writ exists in the case at bar.

Whereby movant prays that this Motion to Compel Discovery be granted.

Respectfully Submitted,



**CERTIFICATE OF SERVICE**

I certify that on February 13, 2003, I mailed a copy of this **MOTION TO COMPEL DISCOVERY** along with attachments, via first class mail to the following parties at the addresses listed below:

CLERK OF THE COURT  
THE HONORABLE YVETTE KANE  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA  
228 WALNUT STREET  
HARRISBURG, PA 17108

KATE L. MERSHIMER ESQ.  
ASSISTANT U.S. ATTORNEY  
UNITED STATES ATTORNEY'S OFFICE  
MIDDLE DISTRICT OF PENNSYLVANIA  
228 WALNUT STREET, 2ND FL.  
P.O. BOX 11754  
HARRISBURG, PA 17108-1754

I certify that these documents were given to prison officials February 13, 2003 for forwarding to the above-listed addresses.

I certify that the foregoing is true and correct. 28 U.S.C.

§1746.

/s/ *Donald F. Enck*

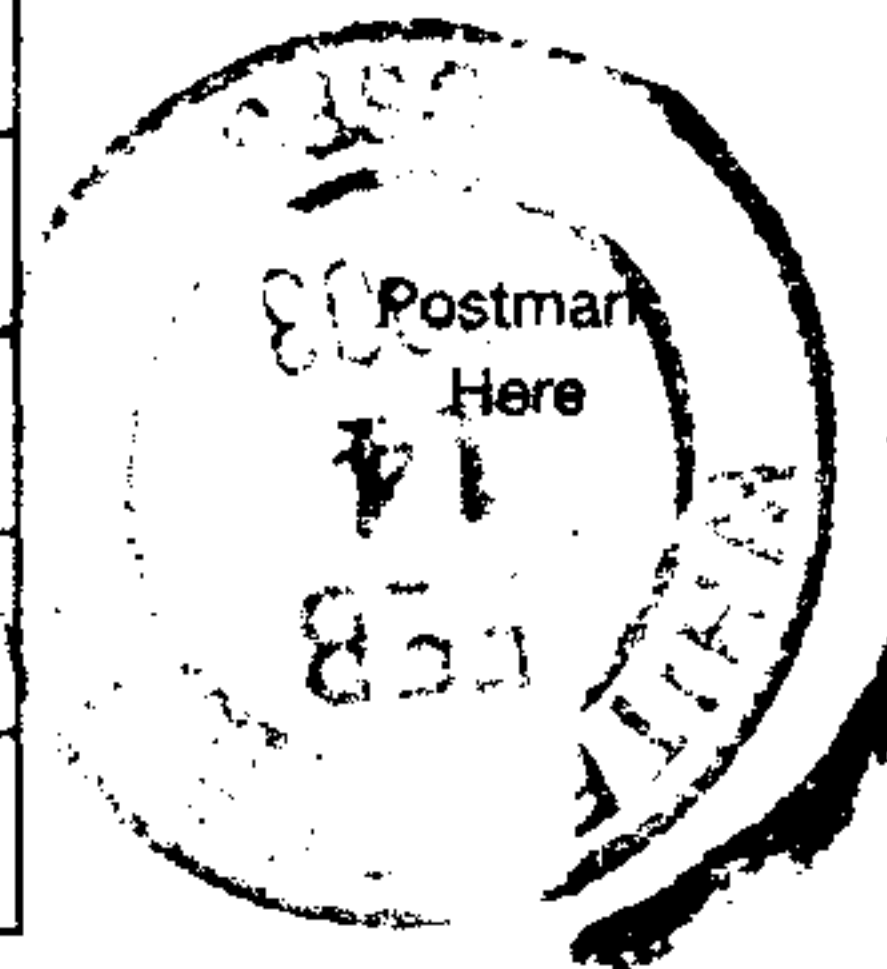
Dated: February 13, 2003



U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

**RONALD TUCKER 39032-053 (3A)**

Postage \$ **.37**  
 Certified Fee **2.30**  
 Return Receipt Fee (Endorsement Required) **1.75**  
 Restricted Delivery Fee (Endorsement Required)  
 Total Postage & Fees \$ **4.42**



Recipient's Name (Please Print Clearly) (to be completed by mailer)  
**Kate L. Mershimer U.S.A. U.S. Attorney**  
 Street, Apt. No., or PO Box No.  
**Office 228 Walnut St P.O. Box 11754**  
 City, State, ZIP+4  
**Harrisburg PA 17108-1754**

PS Form 3800, February 2000 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**KATE L. MERSHIMER ESQ.**  
**ASSISTANT U.S. ATTORNEY**  
**UNITED STATES ATTORNEY'S OFFICE**  
**MIDDLE DISTRICT OF PA**  
**228 WALNUT STREET 2ND FL.**  
**P.O. BOX 11754**  
**HARRISBURG, PA 17108-1754**

2. Article Number

(Transfer from service label)

**7000 0600 0027 1130 1127**

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

**X** ☐ Agent  
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

**FEB 19 2003**

D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes



**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

**7000 0600 0027 1130 1141**

**RONALD TUCKER 39032-053 (3A)**

Postage	\$ .37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 4.42</b>

**FEB 14 003**  
Postmark Here

**Recipient's Name (Please Print Clearly) (to be completed by mailer)**  
**Clerk of Court (Honorable Yvette Kane)**  
**Street, Apt. No., or P.O. Box No.**  
**U.S. District Court M.D. PA. 228 Walnut St.**  
**City, State, ZIP+4**  
**Harrisburg, PA 17108**

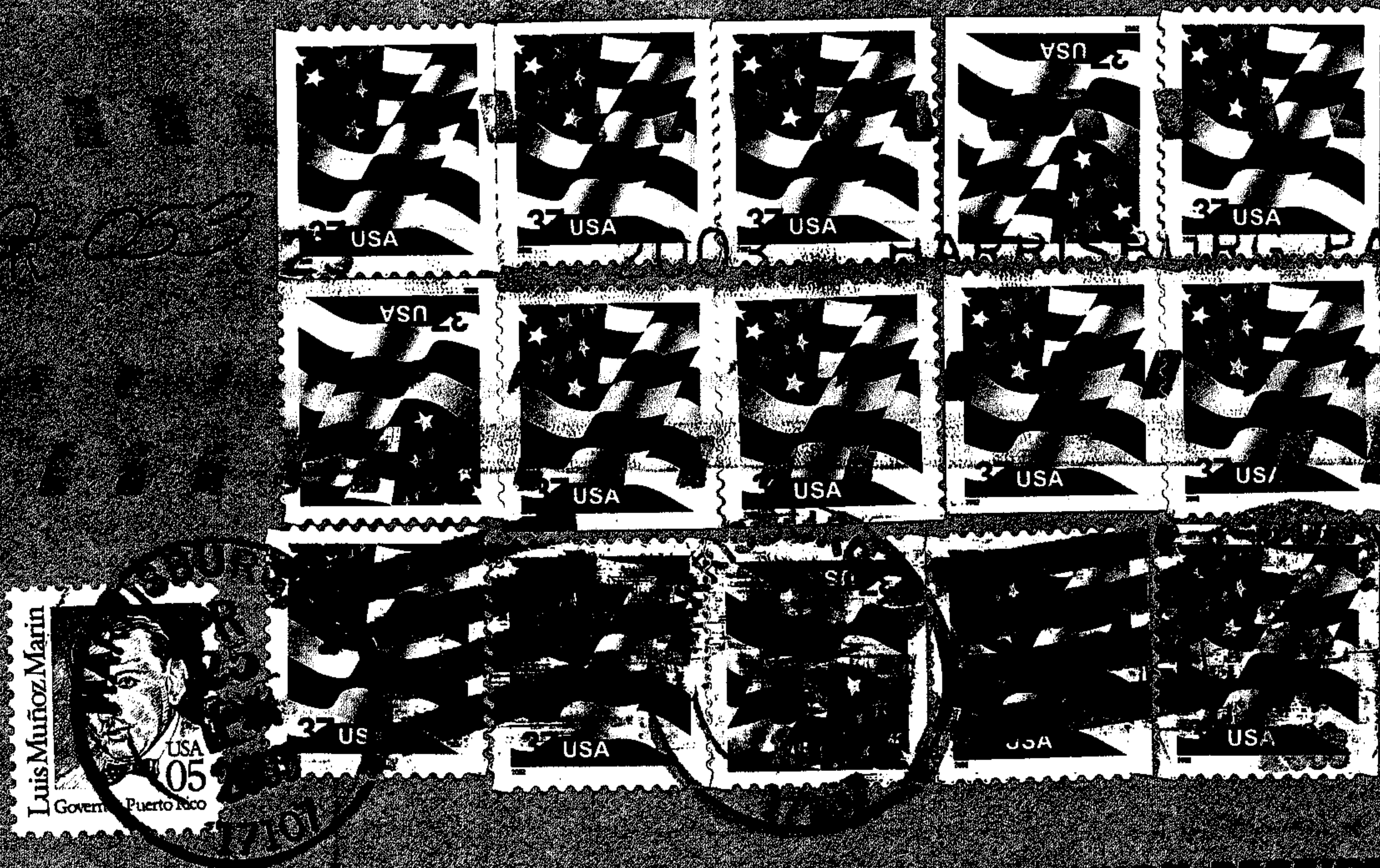
PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p><b>A. Signature</b>  <b>X</b> <i>ST Barone</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p><b>1. Article Addressed to:</b></p> <p><b>CLERK OF THE COURT</b>  <b>(THE HONORABLE YVETTE KANE)</b>  <b>UNITED STATES DISTRICT COURT</b>  <b>MIDDLE DISTRICT OF PA</b>  <b>228 WALNUT STREET</b>  <b>HARRISBURG, PA 17108</b></p>		<p><b>B. Received by (Printed Name)</b> <b>C. Date of Delivery</b>  <b>FEB 19 2002</b></p>	
<p><b>2. Article Number</b>  (Transfer from service label) <b>7000 0600 0027 1130 1141</b></p>		<p><b>D. Is delivery address different from item 1?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No  If YES, enter delivery address below:</p>	
		<p><b>3. Service Type</b></p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p><b>4. Restricted Delivery? (Extra Fee)</b> <input type="checkbox"/> Yes</p>	

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509



TICKET 39088-053  
ENVELOPE  
PH 17807



RETURN RECEIPT  
REQUESTED

TO: CLERK OF THE COURT  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA  
228 WALNUT STREET  
HARRISBURG, PA 17108

FILED  
HARRISBURG  
APR 28 2003  
MARY E. DANIEL  
POT

LEGAL MAIL

LEGAL MAIL

THE ENCLOSED LETTER WAS PROOF  
SPECIAL MAILING PROCEDURE FOR  
FOR THE LETTER HAS BEEN WRITTEN  
INSPECTED BY THE WRITER MISSED  
PROBLEM OVER WHICH THIS  
JURISDICTION, YOU MAY WISH TO  
MATERIAL FOR FURTHER IN-  
CLARIFICATION. IF THE WRITER  
CORRESPONDENCE FOR FORWARDING  
ADDRESS, PLEASE RETURN THE EN-  
CLOSED ADDRESS.

ALLENWOOD FEDERAL CORRECTIONAL  
INSTITUTE  
WHITE OAK, PA 17887  
DATE